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CONSTITUTION

OF THE

KINGDOM OF BELGIUM. *Constitution*

TRANSLATED AND SUPPLIED

WITH

AN INTRODUCTION AND NOTES

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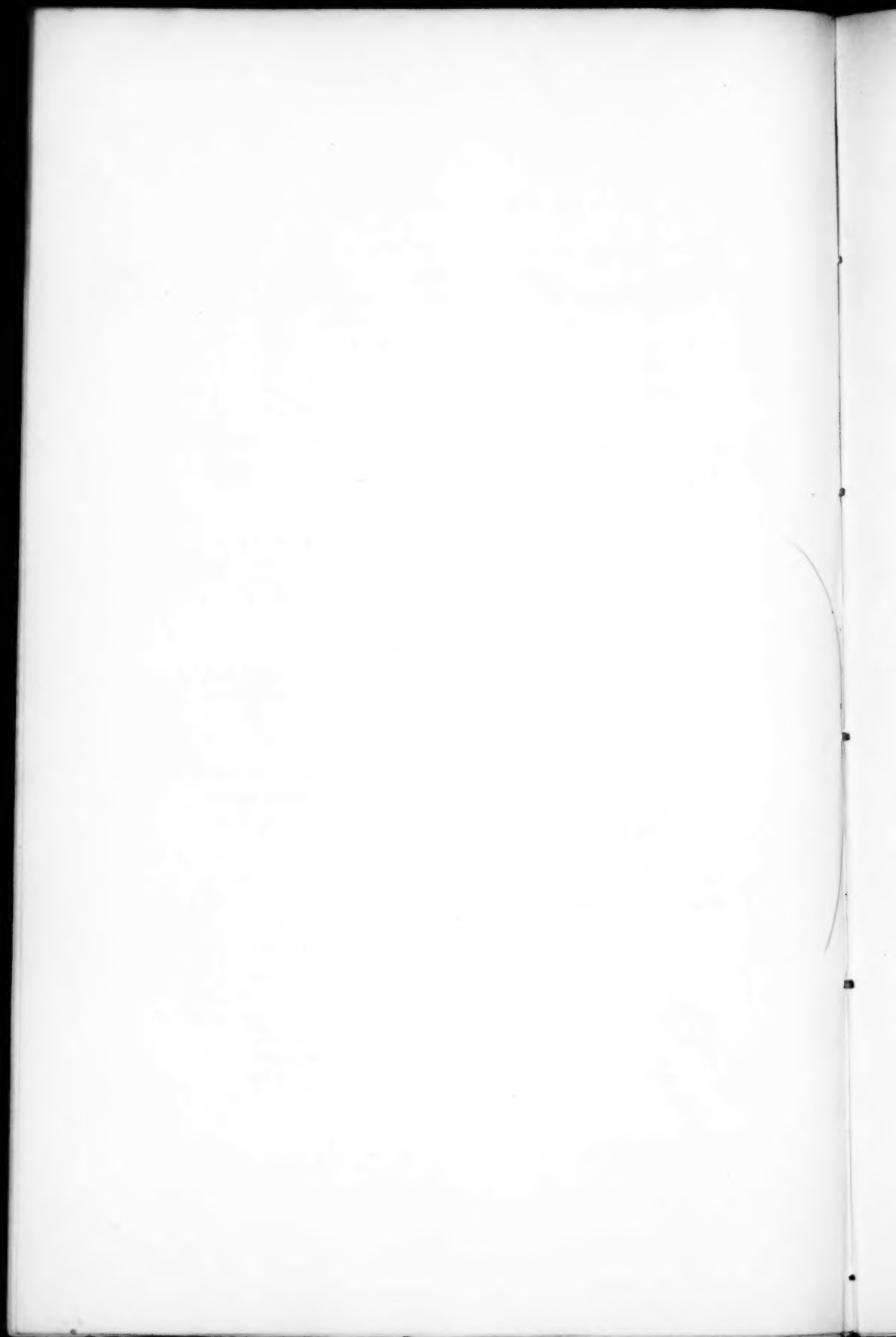
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THE CONSTITUTION OF BELGIUM.

HISTORICAL INTRODUCTION.

Belgium appeared among the nations of Europe as an independent monarchy in 1831. At that time a constitution was adopted which remained without change for more than half a century, and, in fact, continues to be with some amendment the organic law of the state. With its independence and neutrality guaranteed by the great powers, with sagacious rulers on the throne, and with an industrious population, Belgium for the greater part of the nineteenth century has had a singularly fortunate history, and among observers of political affairs has often been pointed out as a model government of its kind. It might be said, however, that this success has been due as much to the temperate political action of the people as to the excellence of the machinery of government, for the progress of the state has not been without periods of serious friction. The framers of the constitution neither severed themselves completely from the past nor provided for all the contingencies of the future, hence the gradual spread of democratic ideas caused in time uneasiness and finally change, so that the year 1893 marks an important epoch in the history of the nation.

One hundred years ago the French Revolution found Belgium under the dominion of the House of Austria, as it had been since before the Reformation. Yet we observe that even this long submission to a

single dynasty had not obliterated the spirit of local independence which had been so conspicuous in the early history of Brabant. Charles the Fifth, despot though he was, was not the sovereign of the Netherlands as a whole but the duke of one province or the count of another, and swore allegiance to each one separately. So the philosophic Joseph II., with his well-meant reforms, at the close of the eighteenth century, had met with resistance largely because the recipients of his favors had not been consulted. Communities and provinces had been so long in the habit of managing their own internal affairs that they did not take kindly to outside interference. In this we may find one explanation of the large measure of local autonomy existing to-day in Belgium, and, furthermore, may see some reasons for the lack of united resistance to outside invasion at certain critical points in her history. One of these crises was the French Revolution.

When the armies of the Directory appeared in Belgium their superior force was aided by the hatred of the people to the Austrian dominion and the conquest was easy. In fact, the French were welcomed as deliverers, but the disappointment was sad, for besides loss in plunder, the country was practically annexed to the republic by being divided into arbitrary departments and administered as a part of France.

For a time Napoleon inherited this conquest and used it as his own, but at the collapse of his empire the Congress of Powers which administered his estate determined to join the Belgian provinces to those of Holland under the title of the Kingdom of the Netherlands. A working constitution was

established for this new monarchy, which provided a legislative assembly in which each country was to be equally represented, although the population of Belgium was far more numerous than that of Holland. Under this arrangement the countries lived for a decade and a half, until, by the episode known as the Revolution of 1830, these uncongenial parts were separated and the independent kingdom of Belgium came into being.

This has sometimes been regarded merely as an echo of the crisis in France of the same year, but the Belgian revolution of 1830 was by no means a sentimental copy of the democratic movement across the border, nor was it likely to have occurred, had not the grievances which caused it been of many years standing. The Belgians were not pleased with their political situation for numerous reasons. That the union brought about by the European Powers was not a success ought to have been evident even to its creators, though the Hollanders were blind to the reasons of it. Whatever opinion we may have of the motives of William of Holland, or of his Dutch statesmen, it must be conceded that the policy pursued was very unlikely to conciliate the Belgian people. Not only was there disproportion in the legislature, but in the administration as well; the Dutch were given place and advancement in overwhelming majority. National jealousy was thus needlessly aroused and the ill feeling was kept alive and further embittered by the differences of the two peoples in religious faith.

Other causes of irritation might be mentioned, which occurred from time to time during the fifteen years of union. The arbitrary abolition of trial by jury by royal

edict was followed by the establishment of Dutch as the official language of both countries in civil and military matters; the financial system was unjust to Belgium, the old Holland debt having been revived and saddled equally on the two countries; the Dutch, taking advantage of the numbers in the legislature passed commercial ordinances which discriminated in favor of Holland; the Supreme Court and certain other common institutions were placed in Holland, and every important lawyer was thus obliged to learn Dutch and lose practice at that; in religious matters the Protestant government was not sufficiently considerate of the strong Catholic population of Belgium, for there was always a lingering fear that the Hollanders would attempt to protestantize the country completely through the schools. In short, the king appeared to look upon these provinces as his own and to act in the spirit of the clause in the agreement of the powers which said that he should be given "an accession of territory."

In view of these facts it is not surprising that in 1830 a little spark kindled a patriotic revolution. A few enthusiasts cried out, "*Imitons les Parisiens*," and the country followed, but only part way in the path of destruction. With all the temptation to violent reaction the moderation of the actors in this revolution is striking. The statesmen who were called upon to rebuild the nation refused to follow recent example and establish a republic. They refused to separate themselves from their historic past, but founded a constitutional monarchy and then looked about to find a suitable person to wear the crown.

Leopold, Duke of Saxe-Coburg, accepted the task and during a reign of thirty-four years displayed a similar

moderation in the exercise of his powers. Leopold II., his son, has likewise been a man of great discretion, but has lived to see some great changes in the political condition and political aspirations of his people.

Since the adoption of the constitution there has been a constant advancement in public welfare in so far as this could be accomplished by statute law. The fundamental law has from time to time been interpreted in a liberal spirit and the maximum of freedom made use of. Party government has not been without friction, but heated periods and alarming crises have been safely passed. The same native moderation has proved the safety of the nation. The controlling powers, sometimes Liberal, sometimes Catholic Conservative, have never been extreme in their demands; neither the radicals nor the ultramontanes having been in a position to command. A recent writer has thus briefly characterized the situation:

"One may summarize our whole political movement in saying that the progressive liberals prepare the reforms, that the moderate liberals realize them, and that the governmental catholics do not dare undo the work, in spite of the objurgations of the ultramontanes."¹

The political experience of Belgium has been of great interest to all students of government, but as this did not until recently result in changes in the constitution, the history of the matter does not come within the scope of this paper. Suffice it to say that before sixty years of state life had passed it was plainly seen that the old foundation was too narrow for the new age. Agitation was in progress for many years, demanding particularly an enlargement of the suffrage. The composition of

¹ Goblet d'Alviella, in "*Cinquante Ans de Liberté*," Vol. i, p. 192.

the senate was also an issue, though of less importance in the public mind. In both matters amendments were effected. A strong party backed by the disfranchised working classes demanded universal suffrage pure and simple ; others demanded an educational qualification of various kinds, while the conservatives stood for a moderate widening of the property qualification. Compromises between the extremes were finally agreed upon and the changes were recorded in the fundamental law in 1893.¹ A few comments on the nature of these amendments will be found in the notes appended to the constitution.

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¹ Promulgated in September, 1893. See *Recueil des Lois*, No. xiii, 1893.

THE CONSTITUTION OF BELGIUM.

In the name of the Belgian people, the National Congress enacts :

TITLE I.

THE TERRITORY AND ITS DIVISIONS.

ARTICLE 1. Belgium is divided into provinces. These provinces are : Antwerp, Brabant, West Flanders, East Flanders, Hainaut, Liège, Limbourg, Luxembourg, Namur. If required, the territory may be divided by law into a greater number of provinces.

The colonies, possessions beyond the sea or protectorates which Belgium may acquire shall be governed by special laws. The Belgian forces required for their defence shall be recruited only by voluntary enlistment.¹

ART. 2. Subdivisions of the provinces cannot be made except by law.

¹ Before the French Revolution Belgium was divided into three states; the principality of Liège, the principality of Stavelot and the provinces of the Pays Bas Catholique. The subdivisions in these were of a feudal character and were separated, in respect to political rights, by many barriers of law and custom. The Directory introduced uniformity on the plan of the departments, districts and cantons used in France and the idea has prevailed ever since. In the revision the words "except the relations of Luxembourg to the Germanic Confederation" are omitted. In 1839 a portion of that province was erected into a German duchy and the boundaries of the countries fixed by treaty. The paragraph on colonies is entirely new. The early framers of the constitution could scarcely have dreamed that their king would become also the sovereign of an immense territory in the depths of Africa, nor that the people of Belgium would eventually inherit his dominion over a Congo Free State.

ART. 3. The boundaries of the state, or of the provinces, or of the communities cannot be changed or rectified except by law.

TITLE II.

BELGIAN CITIZENS AND THEIR RIGHTS.

ART. 4. Belgian citizenship is acquired, maintained and lost according to regulations established by the civil law.

The present constitution and the other laws relating to political rights determine what other conditions are necessary for the exercise of these rights.

ART. 5. Naturalization is granted by the Legislative power.

Full naturalization alone admits foreigners to equality with Belgians in the exercise of political rights.

ART. 6. There shall be no distinction of classes in the state.

Belgian citizens are equal before the law ; they alone are admissible to civil and military offices, with such exceptions as may be established by law for particular cases.

ART. 7. Individual liberty is guaranteed.

No one may be prosecuted except in cases provided for by law and in the form therein prescribed.

Except in the case of flagrant offense no one may be arrested without a warrant issued by a magistrate, which ought to be shown at the time of arrest, or at the latest within twenty-four hours thereafter.

ART. 8. No person shall be removed against his will from the jurisdiction of the judge to whom the law assigns him.

ART. 9. No penalty shall be established or enforced except in pursuance of law.

ART. 10. The private domicile is inviolable; no search of premises can take place except in cases provided for by law and according to the form therein prescribed.

ART. 11. No one may be deprived of his property except for the public good and according to the forms established by law, and in consideration of a just compensation previously determined.

ART. 12. Punishment by confiscation of property shall not be established.¹

ART. 13. Total deprivation of civil rights (*mort civile*) is abolished and shall not be re-established.²

ART. 14. Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed, unless crimes are committed in the use of these liberties.

ART. 15. No one shall be compelled to join in any manner whatever in the forms or ceremonies of any religion, nor to observe its days of rest.

ART. 16. The state shall not interfere either in the appointment³ or in the installation of the ministers of any religion whatever, nor shall it forbid them to correspond with their superiors or publish their proceedings,

¹ To be understood as forbidding total confiscation of property; otherwise fines would be abolished

² *La mort civile* is abolished as a punishment by itself. The condition follows as a secondary consequence of condemnation to death, hard labor or transportation for life.

³ In most European states the appointment of bishops must be confirmed by the civil authorities. The liberal Catholics of Belgium in preserving the rights of the Holy See thus placed the freedom of all denominations on a better footing than in France or even Switzerland.

subject to the ordinary responsibility of the press and of publication.

Civil marriage shall always precede the religious ceremony, except in cases to be established by law if found necessary.

ART. 17. There shall be freedom of opinion in teaching; all measures preventing this are forbidden; the repression of offenses shall be regulated only by law.

Public instruction given at the expense of the state shall likewise be regulated by law.

ART. 18. The press is free; no censorship shall ever be established; no caution money shall be exacted of writers, publishers or printers.¹

In case the writer is known and is a resident of Belgium, the publisher, printer or distributor can not be prosecuted.

ART. 19. Belgian citizens have the right to assemble peaceably and without arms, when conforming to the laws which regulate this right, and without previous authorization.

This provision does not apply to assemblies in the open air, which remain entirely under the police laws.

ART. 20. Belgian citizens have the right of association; this right shall not be restricted by any preventive measure.

ART. 21. Any one has the right to address petitions to the public authorities, signed by one or more persons.

The constituted authorities alone have the right to address petitions in the name of the people collectively.

ART. 22. The privacy of correspondence is inviolable.

¹ The press has the further privilege of obligatory jury trial when prosecuted. Compare Articles 96 and 98. The statutes prohibit preventive arrest and give the accused a distinct place among other persons on trial.

The law shall determine who are the agents responsible for the violation of the secrecy of letters entrusted to the post.

ART. 23. The use of the languages spoken in Belgium is optional. This may be regulated only by law and only for acts of public authority and for judicial proceedings.¹

ART. 24. No previous authorization is necessary to bring action against public officials for the acts of their administration, except as provided for cabinet ministers.

TITLE III.

CONCERNING POWERS.

ART. 25. All powers emanate from the people.

They are to be exercised in the manner established by the constitution.

ART. 26. The Legislative power is exercised collectively by the King, the Chamber of Representatives and the Senate.

ART. 27. Each of the three branches of the Legislative power has the right of initiative.

Nevertheless, all laws relative to the revenues or expenditures of the state or to the army contingent must be voted first by the Chamber of Representatives.

ART. 28. The authoritative interpretation of the laws belongs only to the Legislative power.

ART. 29. The Executive power is vested in the King, subject to the regulations of the constitution.

ART. 30. The Judicial power is exercised by the courts and the tribunals.

¹ The general laws and royal decrees are published in the *Moniteur* in French. They are then reprinted in a special collection with a Flemish translation for the communes using that tongue, but the French alone is the official text. In local administration the language of the district or community is used.

Decrees and judgments are executed in the name of the King.

ART. 31. Affairs exclusively communal or provincial are regulated by the communal or provincial councils, according to the principles established by the constitution.

Chapter I.

THE CHAMBERS.

ART. 32. The members of the two Chambers represent the nation, and not the province alone, nor the subdivision of the province which has elected them.

ART. 33. The sessions of the Chambers shall be public. Nevertheless each Chamber may resolve itself into a secret committee upon the demand of its president or ten members.

It may then decide by vote of an absolute majority, whether the session shall be resumed in public upon the same subject.

ART. 34. Each Chamber shall judge of the qualifications of its own members, and shall decide all contests which arise upon that subject.

ART. 35. No person can at the same time be a member of both Chambers.

ART. 36. Any member of either of the two Chambers, who shall be appointed by the Government to any other salaried office except that of minister, and who accepts the same, shall give up his seat immediately, and may resume his duties only by virtue of a new election.¹

ART. 37. At each session, each of the Chambers shall elect its president, its vice-presidents, and shall form its bureau.

¹ This does not exclude offices of local administration even when salaried.

ART. 38. An absolute majority of the votes is necessary to pass any resolution except as otherwise established by the rules of the Chambers in regard to elections and nominations.¹

In case of an equal division of votes, the proposition under consideration is rejected.

Neither of the two Chambers can pass a resolution unless a majority of its members are present.

ART. 39. The votes are given *viva voce* or by rising and sitting; the vote on a law as a whole shall always be by roll call and *viva voce*. The election and nomination of candidates shall be by secret ballot.

ART. 40. Each Chamber shall have the right of inquiry into public affairs.

ART. 41. A proposed law cannot be passed by either of the Chambers unless it has been voted upon article by article.

ART. 42. The Chambers have the right to amend and to divide the articles and amendments proposed.

ART. 43. To present petitions in person to the Chambers is forbidden.

Each Chamber has the right to send to the ministers the petitions which are addressed to it. The ministers are obliged to give explanations upon their contents whenever the Chamber demands.

ART. 44. No member of either Chamber shall be arrested or prosecuted on account of opinions or votes expressed by him in the performance of his duties.

ART. 45. No member of either Chamber shall during the continuance of the session be prosecuted or imprisoned after trial, except by the authority of the

¹ For questions requiring a two-thirds vote, see Articles 61, 62 and 131.

Chamber of which he is a member, except in cases of flagrant misdemeanor.

No member of either Chamber shall be arrested during the session, except by the same authority.

The detention or the prosecution of a member of either Chamber is suspended during the session and for the entire term, if the Chamber so demands.

ART. 46. Each Chamber determines by its own rules the mode in which it is to exercise its powers.

Section I.

THE CHAMBER OF REPRESENTATIVES.

ART. 47. The members of the Chamber of Representatives shall be chosen by direct election under the following regulations :

One vote is allotted to citizens who have reached the age of twenty-five years, resident for at least one year in the same community and who are not otherwise excluded by law.

One additional vote is allotted in consideration of any one of the following conditions :

1. Having reached the age of thirty-five years, being married or a widower with legitimate offspring, and paying to the state a tax of not less than five francs as a householder, unless exempted on account of his profession.

2. Having reached the age of twenty-five years and being the owner either of real estate of the value of at least 2000 francs, said value to be rated on the basis of the cadastral assessment or, possessing revenues from land corresponding to the said valuation, or being inscribed in the great book of the public debt, or

possessing obligations of the Belgian Government savings-bank bearing at least 100 francs interest.

These inscriptions and bank-books must have belonged to the holder for at least two years.

The property of the wife is counted with that of the husband; that of minor children with that of the father.

Two additional votes are allotted to citizens who have reached the age of twenty-five years, and who fulfill the following conditions:

A. Holding a diploma from an institution of higher instruction, or an endorsed certificate showing the completion of a course of secondary education of the higher degree, without distinction between public or private institutions.

B. Filling or having filled a public office, holding or having held a position, practicing or having practiced a private profession which presupposes that the holder possesses at least the knowledge imparted in secondary instruction of the higher degree. These offices, positions and professions, likewise the time during which they must have been held or practiced, shall be determined by law.

C. No one shall have more than three votes. All ballots shall be identical in form and color.¹

¹ The original article of 1830 required that the deputies be elected directly by citizens paying direct taxes not less than 20 florins (42½ francs) nor more than 100 florins. Since 1848 the qualification has been at the minimum of taxation nevertheless the result has been a very small electorate. In recent years there have been only about 133,000 voters in a population of 6,147,000. The increasing discontent with this state of affairs was the chief cause for the calling of the constitutional convention which met in 1892. As will be seen by Article 131, this body is a re-elected parliament sitting as a constituent assembly. No less than fourteen different schemes for revision of the articles on suffrage were submitted. In the committee universal suffrage was voted down. The result was great,

ART. 48. The constitution of the electoral colleges is regulated by law for each province. Voting is obligatory; it shall take place in the community, when not otherwise determined by law.

ART. 49. The number of representatives is determined by law, according to the population; this number shall not exceed the proportion of one representative for 40,000 inhabitants. The qualifications of an elector and the process of election shall be determined also by law.

ART. 50. To be eligible it is necessary:

1. To be a Belgian citizen by birth, or to have received full naturalization;
2. To enjoy civil and political rights;
3. To have reached the age of twenty-five years;
4. To be a resident of Belgium.

No other condition of eligibility shall be required.

ART. 51. The members of the Chamber of Representatives shall be elected for a term of four years; one-half being elected every two years, in the order determined by the electoral law.

agitation among the working classes, and on the occasion of a socialistic congress which occurred a few days later a serious riot took place in Ghent. The military was called out and matters were somewhat quieted but the people continued to be excited. Parliament then voted to reduce the age of eligibility, but the masses were not satisfied and a universal industrial strike was threatened unless their full demands were complied with. Public feeling was for a time very tense but no great violence occurred, yet all parties in parliament felt compelled to recede from their extreme demands and a compromise was finally effected as we have it in Article 47. It was estimated that the new electorate would raise the number of voters to about 1,200,000, having at their disposal about 1,900,000 votes. The first election showed 1,370,000 voters with 2,111,000 votes. The law which carries this provision into effect enumerates nineteen different classes of professions which are entitled to two extra votes, passing from ministers of state down through lawyers, doctors, druggists, school inspectors to primary teachers. None others than those expressly named can have the additional votes.

In case of dissolution the Chamber shall be entirely renewed.

ART. 52. Each member of the Chamber of Representatives shall receive an annual compensation of 4000 francs.

He shall have, in addition, the right of free transportation upon all state and concessionary railways from the place of his residence to the city where the session is held.¹

Section II.

THE SENATE.

ART. 53. The Senate is composed :

1. Of members elected according to the rate of the population of each province conformably to Article 47; though the law may require that the electors shall have reached the age of thirty years. The provisions of Article 48 are applicable to the election of Senators.

2. Of members elected by the provincial councils, to the number of two for each province having less than 500,000 inhabitants, of three for each province having from 500,000 to 1,000,000 inhabitants, and of four for each province having more than 1,000,000 inhabitants.²

¹ Before the revision representatives received a monthly salary of 400 francs during the continuance of the session, except those who resided in the capital, who received nothing. The free transportation clause is new.

² Under the original constitution the Senate was elected by the same class of voters as for the other Chamber, and the number of members was one-half of the representatives. The property qualification was much higher for the amount of tax was something over 2000 francs. The result was that the Senate represented a single class or set of interests in the country and did not have the sympathy of the public. By the addition of members elected by the provincial councils it was hoped to make it a more truly representative body. During the work of revision it was proposed that a certain measure of direct legislation by the people be introduced. This was to be limited to a popular veto on bills which might seem to

ART. 54. The number of Senators to be elected directly by the voters shall be equal to half the number of members of the Chamber of Representatives.

ART. 55. Senators shall be elected for a term of eight years; one-half being elected every four years in the order determined by the electoral law.

In case of dissolution, the Senate shall be entirely renewed.

ART. 56. To be a Senator, it is necessary:

1. To be a Belgian citizen by birth, or to have received full naturalization;
2. To enjoy civil and political rights;
3. To be a resident of Belgium;
4. To be at least forty years of age;
5. To pay into the treasury of the state at least 1200 francs of direct taxes, including licenses;

Or to be either the proprietor or the usufructuary of real estate situated in Belgium, the assessed revenue of which amounts to at least 12,000 francs.

In the provinces where the number of those eligible does not reach the proportion of one for every 5000 inhabitants, the list shall be completed by those residents of the province paying the highest taxes. The citizens on this supplementary list are eligible only in the province where they reside.

The Senators elected by the provincial councils are exempt from all property qualification; they must not be members of the assembly which elects them, nor have

urgently require it, but the peculiar feature of the project was that it was to be left to the discretion of the King when to call for the popular vote. This would have been an interesting experiment, but was calculated to bring the royal executive out of his neutral and irresponsible position. After much discussion this was voted down, as was also the plan for a system of proportional representation which had been insisted on by the ministry then in power.

been members of it during the year of the election nor during the two preceeding years.

ART. 57. Senators shall receive neither salary nor emolument.

ART. 58. The sons of the King, or if there are none, the Belgian princes of the branch of the royal family designated to succeed to the throne, are by right Senators at the age of eighteen years. They have no deliberative vote until twenty-five years of age.

ART. 59. Any assembly of the Senate which may be held at any other time than during the session of the Chamber of Representatives, is null and void.

Chapter II.

THE KING AND THE MINISTERS.

Section I.—THE KING.

ART. 60. The constitutional powers of the King are hereditary in the direct descendants, natural and legitimate, of His Majesty Leopold-George-Christian-Frederick of Saxe-Coburg, from male to male in the order of primogeniture, and to the perpetual exclusion of the females and of their descendants.

The prince who shall marry without the consent of the King, or of those, who in his absence exercise his authority as provided by the constitution, shall forfeit his rights to the crown.

Nevertheless, with the consent of the two Chambers, he can be relieved of this forfeiture by the King or by those who, in his absence, exercise his authority according to the constitution.¹

¹ The clauses relating to the marriage of the heirs apparent were inserted at the last revision.

ART. 61. In default of male descendants of His Majesty Leopold-George-Christian-Frederick of Saxe-Coburg, the King may name his successor, with the consent of the Chambers expressed in the manner prescribed by the following article.

If no nomination has been made after the manner described below, the throne shall be vacant.

ART. 62. The King cannot be at the same time the head of another state without the consent of the two Chambers.

Neither of the Chambers can deliberate upon this point unless two-thirds, at least, of the members who compose it are present, and the resolution must be adopted by at least two-thirds of the votes cast.

ART. 63. The person of the King is inviolable; his ministers are responsible.

ART. 64. No decree of the King can take effect unless it is countersigned by a minister, who, by that act alone, renders himself responsible for it.

ART. 65. The King appoints and dismisses his ministers.¹

¹ Emile de Laveleye in his book on "Government in Democracies," calls attention to an interesting bit of political experience in Belgium. ("*Gouvernement dans la Démocratie*," Vol. I., p. 367.) Several times in the history of the country, ministries have been dismissed when there was still a majority in their favor in the legislature. In 1857 Leopold I. did this because of the great popular outcry against the measures proposed by the cabinet in power. Leopold II. did the same thing in 1871 and again in 1884 because the people were very much excited and the downfall of the ministry was demanded by the large towns, especially the capital. The motive for the act was that the majority in parliament did not represent the majority in the country, and the result was that in every case the agitation of the public was calmed. Laveleye compares this to the conduct of Louis Philippe in 1848, when he insisted on maintaining too long the strict legal rights of the Guizot ministry in the face of popular outcry, until the masses became infuriated and deposed the monarchy itself. The advisability of bending before manifest popular desire is a problem well worth careful study.

ART. 66. He confers the grades in the army.

He appoints the officers of the general administration and for foreign relations, except as otherwise established by law.

He appoints other governmental officials only by virtue of an express provision of law.

ART. 67. He issues all regulations and decrees necessary for the execution of the laws, without power to suspend the laws themselves, or to dispense with their execution.

ART. 68. The King commands the forces both by land and sea, declares war, makes treaties of peace, of alliance and of commerce. He notifies the two Chambers of these acts as soon as the interest and safety of the state permit, adding thereto suitable comments.

Treaties of commerce, and treaties which might burden the state, or bind Belgian citizens individually, shall take effect only after having received the approval of the two Chambers.

No cession, no exchange and no addition of territory can take place except by law. In no case can the secret articles of a treaty be destructive of those openly expressed.

ART. 69. The King sanctions and promulgates the laws.

ART. 70. The Chambers shall assemble each year, the second Tuesday in November, unless they shall have been previously summoned by the King.

The Chambers shall remain in session at least forty days each year.

The King announces the closing of the session.

The King has the right to convoke the Chambers in extra session.

ART. 71. The King has the right to dissolve the Chambers either simultaneously or separately. The act of dissolution shall order a new election within forty days, and summon the Chambers within two months.

ART. 72. The King may adjourn the Chambers. In no case shall the adjournment exceed the term of one month, nor shall it be renewed in the same session, without the consent of the Chambers.

ART. 73. He has the right to remit or reduce the penalties pronounced by the judges of courts except such as are fixed by law in the case of ministers.

ART. 74. He has the right to coin money as regulated by law.

ART. 75. He has the right to confer titles of nobility, but without the power of attaching to them any privilege.

ART. 76. He may confer military orders in accordance with the provisions of the law.

ART. 77. The civil list is to be fixed by law for the duration of each reign.¹

ART. 78. The King has no other powers than those which the constitution, and the special laws enacted under the constitution, formally confer upon him.

ART. 79. At the death of the King, the Chambers shall assemble without a summons, at the latest on the tenth day after his decease. If the Chambers shall have been previously dissolved, and if in the act of dissolution the reassembling had been fixed for a day later than the tenth day, the former members shall resume duties until the assembling of those who should replace them.

¹ The civil list of the present king, Leopold II., was fixed by the law of 1865 at 3,300,000 francs.

If only one Chamber shall have been dissolved, the same rule shall be followed in regard to that Chamber.

From the date of the death of the King and until the taking of the oath by his successor to the throne, or by the regent, the constitutional powers of the King shall be exercised, in the name of the Belgian people, by the ministers united in council, and upon their responsibility.

ART. 80. The King is of age when he shall have completed the age of eighteen years.

He shall not take possession of the throne until he shall have solemnly taken, before the united Chambers, the following oath:

"I swear to observe the constitution and the laws of the Belgian people, to maintain the national independence and the integrity of the territory."

ART. 81. If, at the death of the King, his successor is a minor, the two Chambers shall unite in one assembly, for the purpose of providing for the regency and guardianship.

ART. 82. If the King becomes incapacitated to reign, the ministers, after having ascertained this incapacity, shall immediately convoke the Chambers. The Chambers assembled together shall provide for the regency and guardianship.

ART. 83. The regency can be conferred upon only one person.

The regent can enter upon his duties only after having taken the oath prescribed by Article 80.

ART. 84. No change in the constitution can be made during a regency.

ART. 85. In case there is a vacancy of the throne, the Chambers deliberating together, shall arrange provisionally for the regency, until the first meeting of the

Chambers after they have been wholly re-elected. That meeting shall take place at the latest within two months. The new Chambers deliberating together shall provide definitely for the vacancy.

Section II.

THE MINISTERS.

ART. 86. No person can be a minister unless he is a Belgian citizen by birth, or has received full naturalization.

ART. 87. No member of the royal family can be a minister.

ART. 88. Ministers have no deliberative vote in either Chamber unless they are members of it.

They shall have admission to either Chamber, and are entitled to be heard when they so request.

The Chambers have the right to demand the presence of ministers.

ART. 89. In no case shall the verbal or written order of the King relieve a minister of responsibility.

ART. 90. The Chamber of Representatives has the right to accuse ministers and to arraign them before the Court of Cassation, which, sitting in full bench, alone has the right to judge them, except in such matters as shall be established by law respecting a civil suit by an aggrieved party and respecting crimes and misdemeanors committed by ministers when not in the performance of their duties.

The law shall determine the responsibility of ministers, the penalties to be inflicted on them, and the method of proceeding against them, whether upon accusation accepted by the Chamber of Representatives or by prosecution by the aggrieved parties.

ART. 91. The King can grant pardon to a minister sentenced by the Court of Cassation only upon request of one of the two Chambers.

Chapter III.

THE JUDICIARY.

ART. 92. Actions which involve questions of civil rights belong exclusively to the jurisdiction of the tribunals.

ART. 93. Actions which involve questions of political rights belong to the jurisdiction of the tribunals, except as otherwise determined by law.

ART. 94. No tribunal nor contentious jurisdiction shall be established except by law. No commissions nor extraordinary tribunals under any title whatever can be established.

ART. 95. There shall be a Court of Cassation for all Belgium.

This Court shall not consider questions of fact except in the trial of ministers.

ART. 96. The sessions of the tribunals shall be public, unless this publicity is declared by a judgment of the Court to be dangerous to public order or morals.

In cases of political and press-law offences, closed doors can be enforced only by a unanimous vote of the tribunal.

ART. 97. Every judgment shall be pronounced in open court, and the reasons therefor stated.

ART. 98. The right of trial by jury is guaranteed in all criminal cases and for all political and press-law offences.

ART. 99. The justices of the peace and the judges of the tribunals shall be appointed directly by the King.

The councillors of the courts of appeal and the presidents and vice-presidents of the courts of original jurisdiction shall be appointed by the King from two double lists presented the one by these courts and the other by the provincial councils.

The councillors of the Court of Cassation shall be appointed by the King from two double lists presented one by the Senate and one by the Court of Cassation.

In both cases the candidates named upon one list can be named also upon the other.

All the names shall be published at least fifteen days before the appointment.

The courts shall choose their presidents and vice-presidents from among their own number.

ART. 100. Judges shall be appointed for life.

No judge can be deprived of his office nor suspended until after trial and judgment.

The removal of a judge from one place to another can take place only by means of a new appointment and with his consent.

ART. 101. The King appoints and removes the state officials serving in the courts and tribunals.

ART. 102. The salaries of the members of the judiciary shall be fixed by law.

ART. 103. No judge shall accept from the government any salaried office, unless he shall perform the duties thereof gratuitously, and not then if it is contrary to the law of incompatibility.

ART. 104. There shall be three courts of appeal in Belgium.

Their jurisdiction and the places where they shall be held shall be determined by law.

ART. 105. Special laws shall govern the organization of military tribunals, their powers, the rights and obligations of the members of these tribunals, and the duration of their functions.

There shall be tribunals of commerce in places which shall be designated by law. Their organization, powers, the method of appointment of their members and the duration of their term of office shall also be determined by law.

ART. 106. The Court of Cassation shall decide conflicts of jurisdiction, according to the method prescribed by law.

ART. 107. The courts and tribunals shall enforce executive decrees and ordinances, whether general, provincial or local, only so far as they shall conform to the laws.

Chapter IV.

PROVINCIAL AND COMMUNAL INSTITUTIONS.

ART. 108. Provincial and communal institutions shall be regulated by law.¹

The law shall establish the application of the following principles:

1. Direct election, except in the cases which may be established by law in regard to the chiefs of the communal administration, and government commissioners acting in the provincial councils.

2. The relegation to provincial and communal councils of all provincial and communal affairs, without prejudice to the approval of their acts in the cases and according to the procedure determined by law.

¹ For a description of local and provincial government in Belgium, see the paper by E. de Laveleye in the Cobden Club Essays on "Local Government and Taxation," 1875.

3. The publicity of the sittings of the provincial and communal councils within the limits established by law.

4. The publicity of budgets and accounts.

5. The intervention of the King or of the Legislative power to prevent provincial and communal councils from exceeding their powers and from acting against the general welfare.

ART. 109. The keeping of the civil register is exclusively the duty of the communal authorities.

TITLE IV.

FINANCES.

ART. 110. No tax for the benefit of the state shall be imposed except by law.

No public charge, nor any provincial assessment shall be imposed without the consent of the provincial council.

No public charge nor any communal assessment shall be imposed without the consent of the communal council.

The law shall determine the exceptions which experience shall show to be necessary in regard to provincial and communal taxes.

ART. 111. Taxes for the benefit of the state shall be voted annually.

The laws which impose such taxes shall remain in force for one year only unless they are re-enacted.

ART. 112. No privilege shall be established in regard to taxes.

No exemption or abatement of taxes shall be established, except by law.

ART. 113. Beyond the cases expressly excepted by law, no payment shall be exacted of any citizen other than taxes levied for the benefit of the state, of the

province or of the community. No change shall be made in the existing system of *polders*¹ and *wateringen*,² which remain subject to ordinary legislation.

ART. 114. No pension or gratuity shall be paid out of the public treasury without the authority of law.

ART. 115. Each year the Chambers shall fix the law of accounts and vote the budget.

All the receipts and expenditures of the state must be contained in the budget and in the accounts.

ART. 116. The members of the Court of Accounts shall be appointed by the Chamber of Representatives, and for a term fixed by law.

This court is intrusted with the examination and settlement of the accounts of the general administration, and of all persons accountable to the public treasury. It shall guard that no item of the expenditures of the budget shall be overdrawn and that no transfer shall take place.

It shall audit the accounts of the different administrations of the state, and it shall be its duty to gather for this purpose all information and all necessary vouchers.

The general accounts of the state shall be submitted to the Chambers with the comments of the Court of Accounts.

This court shall be organized by law.

ART. 117. The salaries and pensions of the ministers of religion shall be paid by the state; the sums necessary to meet this expenditure shall be entered annually in the budget.

¹ *Polders* are lands reclaimed from the sea by dikes. The owners of these lands are grouped into associations for the maintenance of the dikes and are governed by particular local customs.

² *Wateringen* are canals for drainage and irrigation.

TITLE V.

THE ARMY.

ART. 118. The method of recruiting the army shall be determined by law. The laws shall also regulate the promotion, the rights and the duties of soldiers.

ART. 119. The army contingent shall be voted annually. The law which fixes this shall remain in force for one year only, unless re-enacted.

ART. 120. The organization and the duties of the constabulary shall be regulated by law.

ART. 121. No foreign troops shall be admitted to the service of the state, to occupy or to cross its territory except by provision of law.

ART. 122. There shall be a citizen militia, the organization of which shall be regulated by law.

The officers of all grades, at least as high as that of captain, shall be chosen by the militia, with such exceptions as may be judged necessary for accountants.

ART. 123. The militia cannot be brought into active service, except when authorized by law.

ART. 124. Soldiers shall not be deprived of their grades, honors and pensions except in the manner prescribed by law.

TITLE VI.

GENERAL PROVISIONS.

ART. 125. The Belgian nation adopts for its colors red, yellow and black, and for the coat of arms of the kingdom, the Belgian lion, with the motto, "UNION GIVES STRENGTH."

ART. 126. The city of Brussels is the capital of Belgium and the seat of government.

ART. 127. No oath shall be imposed except by law.

The form of the oath also shall be determined by law.

ART. 128. Every foreigner within the territory of Belgium shall enjoy protection of his person and property, except as otherwise established by law.

ART. 129. No law, ordinance, or regulation of the general, provincial, or communal government shall be obligatory until after having been published in the manner prescribed by law.

ART. 130. The constitution cannot be suspended, either in whole or in part.

TITLE VII.

THE REVISION OF THE CONSTITUTION.

ART. 131. The Legislative power has the right to declare that a revision of such constitutional provisions as it shall designate, is in order.

After this declaration, the two Chambers are *ipso facto* dissolved.

Two new Chambers shall then be summoned, in conformity with Article 71.

These Chambers, with the approval of the King, shall then act upon the points submitted for revision.

In this case the Chambers cannot deliberate unless at least two-thirds of the members of each are present, and no amendment can be adopted unless it is sustained by at least two-thirds of the votes.¹

TEMPORARY AND TRANSITIONAL.

[Articles 132 to 139 provide for the transition from the old régime to the new and no longer have any effect on the organization of the state.]

¹ The relative significance of Belgium in the European family of constitutions is developed in Borgeaud's "Adoption and Amendment of Constitutions in Europe and America," 1895. Pp. 190-113.

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CONSTITUTION
OF THE
KINGDOM OF BELGIUM

TRANSLATED AND SUPPLIED WITH
AN INTRODUCTION AND NOTES

BY

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